

Agricultural Marketing Service, USDA

§ 920.122

such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 920.70 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 920.110 Exemptions.

(a) *Waivers.* A handler may handle kiwifruit without inspection and certification, as prescribed under § 920.55, if all shipments made under such waivers comply with all regulations in effect, and all the following conditions are met:

(1) The handler requests the Federal-State Inspection Service to provide inspection during its regular working hours at least 4 hours in advance of the time when inspection is needed. The request need not be in writing but it shall be confirmed immediately in writing by the inspection service.

(2) The Federal-State Inspection Service advises the handler that it is not practicable to provide inspection at the time and place designated by the handler. This advice may be verbal but it shall be confirmed in writing by the Federal-State Inspection Service. A confirmed copy thereof shall be forwarded by the inspection service to the office of the Kiwifruit Administrative Committee.

(3) The Federal-State Inspection Service furnishes the handler with the waiver number which shall cover the kiwifruit on which inspection is requested.

(4) When instructed to do so, the handler plainly and conspicuously marks the end of each container with the letter "W" and the waiver number assigned by the Federal-State Inspection Service. The letter "W" and the number shall not be less than one-half inch in height.

(b) *Minimum quantities.* Notwithstanding any other provision of this section, kiwifruit may be handled without regard to the provision of §§ 920.41,

920.52, 920.55 and 920.60 under the following conditions:

(1) Such kiwifruit are for home use and not for resale.

(2) The total weight of such kiwifruit sold to all persons collectively in any one vehicle during any one day does not exceed 200 pounds.

(3) Such kiwifruit are handled by the person who produced them and, the handling takes place: (i) On the premises where grown, (ii) at a packing house, or retail stand (roadside stand, flea market or any other outlet approved by the committee) which is operated by said handler, or (iii) at a Certified Farmers Market.

[50 FR 4856, Feb. 4, 1985, as amended at 53 FR 34035, Sept. 2, 1988]

§ 920.112 Late payments.

Pursuant to § 920.41(a), interest will be charged at a 1.5 percent monthly simple interest rate. Assessments for kiwifruit shall be deemed late if not received within 30 days of invoice, or such other later time period as specified by the committee. A 10 percent late charge will be assessed when payment becomes 30 days late. Interest and late payment charges shall be applied only to the overdue assessment.

[62 FR 45295, Aug. 27, 1997]

§ 920.122 Nomination procedures.

(a) The manner of nominating grower members and alternate members to the committee shall be as follows:

(1) The committee's mailing of an approved nomination form to all kiwifruit growers of record shall constitute notice of nominations. All eligible kiwifruit growers may nominate themselves or any other eligible kiwifruit grower to vacant committee positions for the nominee's district. Completed nomination forms shall be returned to the office of the committee by a date specified by the committee and approved by an agent of the Secretary. Nomination forms shall provide for names of nominees, as well as the nominating grower's name, address, telephone number, and signature. Incomplete nominations forms will not be considered valid.

(2) For each district involved in the current year's nominations, committee